

## Economic Impact Statement

LSA Document #09-478

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses****(1) Estimate of Number of Small Businesses That Will Be Subject to this Rule.**

[IC 8-1-2.6-4.1](#) requires the Indiana Utility Regulatory Commission (Commission) to "eliminate rules and policies concerning telecommunications service and telecommunications service providers if the rules or policies are no longer necessary in the public interest or for the protection of consumers as the result of meaningful economic competition between providers of telecommunications services."

To comply with [IC 8-1-2.6-4.1\(a\)](#), the following 19 rules were eliminated: [170 IAC 7-1.2-3](#); [170 IAC 7-1.2-4](#); [170 IAC 7-1.2-5](#); [170 IAC 7-1.2-6](#); [170 IAC 7-1.2-8](#); [170 IAC 7-1.2-9](#); [170 IAC 7-1.2-10](#); [170 IAC 7-1.2-11](#); [170 IAC 7-1.2-12](#); [170 IAC 7-1.2-13](#); [170 IAC 7-1.2-14](#); [170 IAC 7-1.2-15](#); [170 IAC 7-1.2-17](#); [170 IAC 7-1.3-3](#); [170 IAC 7-1.3-4](#); [170 IAC 7-1.3-5\(a\)](#); [170 IAC 7-1.3-10](#); [170 IAC 7-11.3-11](#); and [170 IAC 7-1.3-12](#). These rules previously addressed record keeping requirements, repair center and business center hours and call answering times, provision of telephone directories, and minimum times to install and repair telecommunications service. They also addressed safety, deposit requirements, creditworthiness of customers, and technical standards.

Rules were amended<sup>1</sup> to address the following: (1) to use terminology consistent with House Enrolled Act 1279; (2) to apply only to eligible telecommunications carriers (ETCs) and providers of last resort over which the Commission retains limited jurisdiction as opposed to all local exchange carriers; (3) to apply to communications service providers as opposed to telecommunications carriers; (4) to comply with current federal regulations enforced by the state; and (5) to streamline and reduce the scope of the rule.

In 2006, the telecommunications industry was largely deregulated by House Enrolled Act 1279 (see [IC 8-1-2.6-4.1](#)). As a result, the Commission currently has limited jurisdiction over approximately 735 communications service providers that serve the residents of Indiana. About 50 of those, mostly rural local exchange carriers, small information service and Voice over Internet Protocol providers, are small businesses that would be subject to this rule.

The number of additional small businesses that will be subject to this rule depends solely on how many additional providers become certified by the Commission. At this time, the Commission cannot reasonably estimate the additional number of small businesses that may become subject to this rule.

**(2) Estimate of Average Annual Reporting, Record Keeping, and Other Administrative Costs.**

The main purpose of the Proposed Rule is to comply with the provisions of [IC 8-1-2.6-4.1\(a\)](#). This requires removing all rules over which the Commission no longer has jurisdiction.

In addition, the rules in place do not reflect current statutory language. Others do not include new types of communications service providers encompassed by the new regulatory framework promulgated by the General Assembly in 2006. This rule will update language to match federal and state statutes. It will remove redundant language already covered by statute. Finally, it will add language to glean the information needed from communications service providers for the Commission to provide statutorily required information to the General Assembly.

One commenter from the industry has indicated one fiscal impact cost they believe would result from the adoption of this rule. However, pursuant to [IC 4-22-2-28](#), considering the "total fiscal impact of the rule" means calculating "the annual economic impact of a rule on all regulated persons after the rule is fully implemented under ([IC 4-22-2-28\(g\)](#))." (**Emphasis added**). The majority of the costs the industry lists are costs associated with federal and state telecommunications statutes<sup>2</sup>, not the proposed administrative rule. The industry states a cost of \$2,755 for wireless companies to report outages, as required under the amended [170 IAC 7-1.2-3\(e\)](#) of the proposed rule. The Commission believes this cost is more properly attributable to underlying statutes. [IC 8-1-2.6-4.1\(a\)](#) requires the elimination of rules "if the rules or policies are no longer necessary in the public interest or for the protection of consumers as the result of meaningful economic competition between providers of telecommunications services." In this case, this rule is necessary and in the public interest, as loss of telephone service for an extended period of time is a public safety issue.

In addition, under [IC 8-1-2.6-13\(d\)\(5\)](#), the Commission may continue to fulfill its obligations under the federal Telecommunications Act of 1996 (47 U.S.C. 151, et seq.) concerning universal service, which, for eligible telecommunications carriers, includes provision of 911 services. A requirement of the Telecommunications Act under 47 CFR 4.5(e) is that wireless service providers submit to the federal government outages (which would include loss of 911 service) within 120 minutes of discovering an outage lasting at least 30 minutes in duration. Therefore, the administrative rule simply gives explicit direction regarding universal service and provision of 911 under the authority of [IC 8-1-2.6-13\(d\)\(5\)](#).

Even if, arguendo, the cost would not be properly attributable to the underlying state statute, it is a cost already expended by the wireless carrier as required by federal law. Wireless service providers are required

under 47 CFR 4.5(e) to report such outages to the federal government. The respondent notes an average of 38 such outages per year. With notice required under the proposed rule to the Commission and the Office of Consumer Counselor, this would equate to 76 calls per year. The Commission believes the cost and time involved in making these calls or emails would be de minimis. Therefore, the rule itself presents NO costs to telecommunications service providers.

**(3) Estimate of the Total Economic Impact of this Rule on Small Businesses.**

This rule presents NO costs to telecommunications service providers. The only cost is one properly attributed to an underlying statute.

In addition, the obligation of the commenter above to comply with the outage rule is as a result of the carrier voluntarily seeking status as an ETC. That designation allows a carrier to access federal subsidies, in exchange for which the carrier accepts the responsibilities to provide certain designated services. An explicit part of that obligation entails reporting requirements by the carriers to ensure that they are providing the designated service consistent with rules governing universal service. Hence, while the commenter asserts that this rule imposes costs to which it objects, that cost is occasioned by the commenter's voluntary status as an ETC.

**(4) Statement Justifying Any Requirement or Cost Imposed.**

There are three primary and direct purposes of the rule. First, the rule implements the provisions of [IC 8-1-2.6-4.1](#), eliminating rules no longer in the public interest. Second, the rule updates terminology to match federal and state terms. Finally, this rule clarifies the limited jurisdiction of the Commission following the 2006 deregulation of communications service providers. These rules are necessary guidance for the industry.

As stated above, while there are costs associated with underlying statutes, this rule presents NO cost to telecommunications service providers.

**(5) Regulatory Flexibility Analysis.**

A lower degree of stringency would not be sufficient. The rule must clarify specific standards necessary to implement statutory requirements and clarify the jurisdiction of the Commission.

<sup>1</sup> [170 IAC 7-1.3-8.1](#) appears as "added" in the Proposed Rule; however, this is simply recodified from [170 IAC 7-1.1-9](#).

<sup>2</sup> This includes, but is not limited to, [IC 8-1-2.6-13\(d\)\(5\)](#) and the federal Telecommunications Act of 1996 (47 U.S.C. 151, et seq.)

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